

Serial No.: 10/695,450  
Confirmation No.: 4555  
Applicant: SAKAGUCHI, E  
Atty. Ref.: 02912.0114

### **REMARKS**

Claims 1 – 10 and 12 – 21 are pending in the present application. Claim 11 has been canceled, and claims 1, 20 and 21 have been amended. Careful reconsideration of the present claims is most respectfully requested based on the following remarks.

#### **Obviousness-Type Double Patenting Rejections:**

In the Office Action, claims 1 – 21 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1, 6 – 14, (and) 19 – 20 (are) of co-pending Application No. 10/367,977 (Takeda et al.) in view of JP 2000103022 A (Togashi et al.). These rejections are most respectfully traversed, as follows.

**First**, it is most respectfully noted that the preferred embodiments of the present invention employ the following advantageous features a) and b).

- a) A content ratio of the filler in the intermediate resin layer with respect to the resin ingredient of the second intermediate resin layer is smaller than a content ratio of the filler in the first intermediate resin layer with respect to the resin ingredient of the first intermediate resin layer.
- b) A thickness of the second intermediate resin layer is 100  $\mu\text{m}$  or more, wherein a thickness of the second intermediate resin layer is 50% or less of a total thickness of three resin layers of the surface resin layer, the first intermediate resin layer and the second intermediate resin layer.

In addition to the above features a) and b), the preferred embodiments of the present invention employ the following feature c) to, e.g., realize a floor material in which edge sides of the floor material are curved downwardly with respect to a central portion of the floor material (an up-curved state) by the combined effect of these features. Such an up-curved state can improve, inter alia, the workability of the floor material.

- c) The formula  $1.0 < X/Y \leq 2M$  is satisfied: where "X" is a degree of elasticity of the

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second intermediate resin layer, and "Y" is a degree of elasticity of the surface resin layer.

On the other hand, the Togashi et al. and the Takeda et al. references do not alone or in combination disclose or suggest, among other things, that the up-curved state of the floor material can be realized by employing the aforementioned features of a), b) and c). Therefore, it is respectfully submitted that it is impossible to achieve the present invention by improperly combining these references.

By a comparison of the Example 1 with the Comparative Example 4, described forth in the present application disclosure, it is demonstrated that the workability is poor when the feature a) is not present.

By a comparison of the Example 1 with the Comparative Example 2, described forth in the present application disclosure, it is demonstrated that that the workability is poor when the feature b) is not present.

By a comparison of the Example I with the Comparative Examples 6 and 7, described forth in the present application disclosure, it is demonstrated that the workability is poor when the feature c) is not present.

**Second**, with respect to the claims, it is respectfully noted that all of the independent claims (i.e., claims 1, 20 and 21) are now further amended in this response so as to further distinguish over the cited references.

In this regard, **claim 1**, as now amended, now recites, among other things:

"wherein the following formula is satisfied:

$$1.0 < x/y \leq 2.0$$

where "X" is a degree of elasticity of said second intermediate resin layer, and "Y" is a degree of elasticity of said surface resin layer, whereby edge sides of the floor material are curved downwardly with respect to a central portion of the floor material."

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In view of the addition of the foregoing language to claim 1, claim 11 is now canceled, without any prejudice or disclaimer to be applied. Additional support for the recitations now added to claim 1 can be found within the present application, including at paragraph [0016].

In addition, **claim 20**, as now amended, now recites, among other things:

"wherein the following formula is satisfied:

$$1.0 < X/Y \leq 2.0$$

where "X" is a degree of elasticity of said second intermediate resin layer, and "Y" is a degree of elasticity of said surface resin layer, whereby edge sides of the floor material are curved downwardly with respect to a central portion of the floor material, and wherein a weight per unit area of said backing layer is 30 to 100 g/m<sup>2</sup>."

In addition, **claim 21**, as now amended, now recites, among other things:

"wherein the following formula is satisfied:

$$1.1 \leq X/Y \leq 1.5$$

where "X" is a degree of elasticity of said second intermediate resin layer, and "Y" is a degree of elasticity of said surface resin layer, whereby edge sides of the floor material are curved downwardly with respect to a central portion of the floor material, and wherein a weight per unit area of said backing layer is 30 to 100 g/m<sup>2</sup>."

Third, the Office Action admits that Application No. 10/367,977 "does not disclose a second resin layer - - ." In an improper attempt to overcome this deficiency of the primary reference, assertion was made by the Patent Office of evidence from paragraphs 0046 - 0048 of the machine translation of JP 2000103022 (Togashi et al.). However, it is respectfully submitted that teachings attributed to this reference by the Patent Office provide only that "a resin layer comprising a filler the resin layer may actually comprise multiple layers." The use of multiple layers allows that "the outer layers comprise less filler in order to facilitate bonding while the inner resin layer comprises additional filler to reduce costs and increase strength."

However, what the Togashi et al. references actually teaches (as per the machine translation) is:

"About a resin layer (2A), if the amount of a component (A) is made [many / comparatively], compatibility and an adhesive property with a surface (1) can be increased. In this case, about a resin layer (2B) If the amount of an inorganic bulking agent component (B) cheaper than a resin constituent."

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This statement identifies resin layer 2A as the layer adhering to the surface layer (1). This means that layer 2A corresponds to a first intermediate resin layer, while the resin layer 2B of Togashi et al. corresponds, therefore, to a second intermediate resin layer.

Furthermore, it is submitted that the '022 reference teaches away from the present invention by requiring more filler in layer 2B than in layer 2A, whereas claim 1 according to the present invention recites, among other things "wherein a content ratio of said filler in said second intermediate resin layer with respect to said resin ingredient of said second intermediate resin layer **is smaller than** a content ratio of said filler in said first intermediate resin layer with respect to said resin ingredient of said first intermediate resin layer." Emphasis added.

**Fourth**, in addition to teaching a reverse of the filler concentration relationships, Togashi et al. further fails to teach thickness relationships of claim 1 as follows: "wherein a thickness of said second intermediate resin layer is 100  $\mu$ m or more, and wherein a thickness of said second intermediate resin layer is 50% or less of a total thickness of three resin layers of said surface resin layer, said first intermediate resin layer and said second intermediate resin layer."

Failing to teach the foregoing, the reference of Togashi et al. (JP 2000103022 A) is ineffective for overcoming the deficiencies of Application No. 10/367,977. Lacking the required teachings, the combination of references is insufficient to sustain rejection for obviousness type double patenting.

It is respectfully submitted that claim 1 is, thus, allowable. Claims depending from claim 1, including claims 2 - 8 and 10 - 19, should likewise be allowable. In addition, claim 9 is allowable due to its dependency from claim 8. Applicants also believe that claims 20 and 21 are allowable because they contain limitations not taught by the combination of references of Takeda et al. and Togashi et al.

It is most respectfully submitted that the claims 1 - 10 and 12 - 21 are in condition for allowance. Early reconsideration and allowance are respectfully requested.

**Rejections Under 35 USC §103:**

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Claims 1 - 21 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over JP 2002-052654 (Takeda et al.) in view of JP 2000103022 (Togashi et al.). These rejections are most respectfully traversed, as follows:

The rejection of claims 1 - 21 for obviousness relies upon Togashi et al. (JP 2000103022 A), which was discussed previously. All of the remarks submitted herein-above are incorporated herein by reference. Careful attention to the foregoing remarks is most respectfully requested.

The Office Action admits that "JP '654 (Takeda et al.) differs from the claimed invention because it does not disclose the presence of a second intermediate resin layer having less filler than the first intermediate layer, the relative thicknesses of the layers, and the relationship between the degree of elasticity of the surface layer and the intermediate resin layer in terms of the formula  $1.0 < X/Y < 2.0$ ." In addition, it is noted that because Togashi et al. teaches a reverse of the filler concentration relationships, it actually teaches away from the present invention and fails to provide a basis needed for rejection of claims for obviousness.

As explained above, Togashi et al. does not teach, among other things, a number of features specifically recited in respective independent claims 1, 20 and 21, and does not teach relationships concerning the thickness of the second intermediate resin layer compared to three layers including the surface resin layer, the first intermediate resin layer and the second intermediate resin layer in the manner recited in, e.g., claim 1. In addition, the Office Action admits that the "relationship between the degree of elasticity of the surface layer and the intermediate resin layer in terms of the formula  $1.0 < X/Y < 2.0$ " is not found in Takeda et al. Togashi et al. is similarly silent. Accordingly, the combined references fail to teach, among other things, the elasticity relationship between the surface layer and the **second** intermediate resin layer as respectively set forth in, e.g., claims 1, 20 and 21.

As set forth above, claims 1, 20 and 21 are, thus, in condition for allowance. Other claims depending from claim 1 should also be allowable for similar reasons. In addition, the dependent claims recite additional features that are not disclosed or suggested by the references. Independent consideration of the dependent claims is respectfully requested.

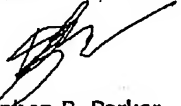
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In view of the foregoing, it is most respectfully requested that the rejections of original claims 1 - 21 be reconsidered and withdrawn and that the Examiner indicate the allowance of the claims in the next paper from the Office.

**Concluding Remarks:**

The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application. The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 14-1437. In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner should directly contact the undersigned by phone to further the discussion.

Respectfully submitted,

  
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